

IN THE HIGH COURT OF UTTARANCHAL IN NAINITAL

Writ Petition No. 227 (S/B) of 2006

Dr. Kamaljeet Singh S/o Sh. Harbans Singh,
Homeopathic Medical Officer,
State Homeopathic Dispensary, Bhuddi,
District Dehradun.

... Petitioner

Vs.

1. Principal Secretary, Medical Health,
Uttaranchal, Dehradun
2. Director Homeopathic Services, Uttaranchal Dehradun

... Respondents.

Dated: July 18, 2006

Sri V.K. Bisht, Sr. Advocate, learned counsel for the petitioners.
Sri Paresh Tripathi, learned counsel for the State.

Hon'ble P.C. Verma, J.

Hon'ble B.S. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned transfer order dated 21.06.2006 passed by Respondent No. 1 which is contained in Annexure No. 7 to the writ petition by which the petitioner has been transferred from State Homeopathic Dispensary, Bhuddi, Dehradun to State Homeopathic Dispensary Byasghat, Pauri Garhwal in the public interest.

2. The petitioner has sought to challenge this transfer order on the ground that the transfer order has been passed in violation of provisions of Article 14 of Constitution of India in as much as the Government did not adhere to its policy of transfer of the year wherein it is provided that if a person has served for a specific period at a specific place, then he will be transferred and while applying this policy the transfer order shall be affected seniority wise in the District.

3. Though, the petitioner has served in District Dehradun for a longer time yet Dr. D.K. Upadhyaya and some other doctors who

are serving in Dehradun for more than 10 years have not been transferred while only the petitioner has been picked up and transferred. The contention of learned counsel for the petitioner is that the petitioner has a good academic record and has additional qualification, therefore he is entitled to be posted at District Headquarter. Learned counsel for the petitioner further contended that the petitioner also made a representation for stay of one year on account of illness of his mother but the same has also not been taken into account.

4. So far as the challenge with regard to the violation of Article 14 Constitution of India is concerned, it is settled that the transfer order cannot be challenged on the ground of violation of Article 14 of the Constitution of India, as it is administrative in nature and the executive is the best authority of judge the public interest to be served by whom. Therefore, the petitioner's having better qualification has been found more suitable to be posted to State Homeopathic Dispensary, Byasghat, Pauri Garhwal in the public interest.

5. In so far as the illness of the mother of the petitioner is concerned, it is provided that the petitioner's representation may be considered by the concerned authority within a period of 30 days from today. For 30 days, the transfer order of the petitioner dated 28.07.2001 shall be kept in abeyance. After the disposal of the representation of the petitioner, if it is found that the petitioner's posting is necessary in the public interest then the fresh transfer order of the petitioner shall be passed.

6. With the aforesaid observation, the petition is disposed of finally.

(B.S. Verma, J.) (P.C. Verma, J.)

